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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on December 20, 2004

Date of Meeting: May 17, 2004

The Mayor and Council of the City of Tucson met in regular session, in the Mayor and Council Chambers in City Hall, 255 West Alameda, Tucson, Arizona, at 5:37 p.m. on Monday, May 17, 2004, all members having been notified of the time and place thereof.

### 1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Fred Ronstadt	Vice Mayor, Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:

None

Staff Members Present:

James Keene	City Manager
Michael House	City Attorney
Kathleen S. Detrick	City Clerk
Mike Letcher	Deputy City Manager

## **2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by President Gary D. Rasmussen, Tucson Arizona Stake, The Church of Jesus Christ of Latter-Day Saints, after which the pledge of allegiance was presented by all in attendance and led by Boy Scout Troop #102.

### **Presentation(s)**

- a. Mayor Walkup and Jim Glock, Transportation Director, presented awards given by the Southern Arizona Branch of the State of Arizona Chapter of the American Public Works Association (APWA), The Public Works Operations Person of the Year Award to Santiago Lozano of the Street and Traffic Maintenance Division.

The Public Works Project of the Year Award to Robin West and Jesse Gutierrez of the Engineering Division for the West Ochoa Neighborhood Back to Basics Project.

The Public Works Organization of the Year Award to the Tucson Department of the Transportation's APWA Accreditation Program and Core Team led by Jeri Ward, and included Bellamay Mong, David Bustamante, Robert Vidal, Dan Longanecker, and Richard Nassi.

- b. Mayor Walkup proclaimed May 16 to May 22 to be Public Works Week.

## **3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS**

Mayor Walkup announced that City Manager's communication number 237, dated May 17, 2004, would be received into and made a part of the record. He also announced that this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Council Member West announced that today was Norwegian Independence Day.

## **4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS**

Mayor Walkup announced that City Manager's communication number 238, dated May 17, 2004, would be received into and made a part of the record. He asked for the City Manager's report.

James Keene, City Manager, announced:

- a. Susan H. Hildreth, currently the director of the City/County San Francisco Public Library, had been selected as the new Director of the Tucson-Pima Public Library (TPPL), starting July 19.

- b. The winners of the City Manager's Excellence Awards were:
  - The Ambassador Team Award went to the Emergency Room Link Group consisting of members from Tucson Department of Transportation, Tucson Fire Department, and General Services Department.
  - City Manager's Team Excellence Award went to the Crime Prevention Weed and Seed Program.
  - City Manager's Individual Excellence Award went to Gloria Bojorquez, a Park's employee who works at the Clements Center.
- c. The League of American Bicyclists kicked off National Bike Month by honoring Tucson and ten other communities with its prestigious Bicycle-Friendly Community Designation.
- d. The Tucson Greens Committee will be hosting a Golfers Town Hall at 6:30 p.m. on May 20, at the Randolph Golf Complex in the Copper Room. Golf issues will be the topic of discussion.
- e. City departments have received press in two national publications:
  - The June 2004 edition of *Popular Mechanics*, "Better Way to Re-Start Hearts" featured the Tucson Fire Department using new CPR techniques developed by Dr. Robert Gerg.
  - The April 2004 edition of *Fire and Arson Investigator* had an article on an experiment conducted jointly by the Tucson Police Department and the Tucson Fire Department to help deal with fires caused by flares in police vehicles.

## 5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced that City Manager's communication number 236, dated May 17, 2004, would be received into and made a part of the record. He asked the City Clerk to read the liquor license agenda.

### (b) New License(s)

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| (1) C.I. CHU'S MONGOLIAN BARBEQUE<br>4540 E. Broadway Blvd.<br>Applicant: Calvin I. Chu<br>City #025-04, located in Ward 6<br>Series 12<br>Action must be taken by: June 6, 2004 | <u>Staff Recommendation</u><br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |
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(c) Special Event(s)

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| (1) SOUTH TUCSON LIONS<br>3700 S. La Cholla Blvd.<br>Applicant: Fernando Acevedo<br>City #T048-04, located in Ward 1<br>Date of Event: May 30, 2004<br>(Fundraiser) | <u>Staff Recommendation</u><br><br>Police: In Compliance<br>DSD: In Compliance<br>Parks & Rec.: In Compliance |
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Mayor Walkup asked the council's pleasure.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 7 to 0, that liquor license applications 5b1 and 5c1, be forwarded to the Arizona State Liquor Board with a recommendation for approval.

**6. CONSENT AGENDA ITEMS A THROUGH C**

Mayor Walkup announced that the reports and recommendations from the City Manager on the consent agenda would be received into and made a part of the record. He asked the City Clerk to read the consent agenda items.

**A. REAL PROPERTY: VACATION AND SALE OF SURPLUS CITY PROPERTY ON WEST SPEEDWAY BOULEVARD TO JOHN D. BUTLER AND RIE K. BUTLER**

- (1) Report from City Manager MAY17-04-234 W1
- (2) Ordinance No. 9963 relating to real property; vacating and declaring certain City-owned real property on West Speedway Boulevard near North Melrose Avenue, to be surplus property, and authorizing the sale thereof to John D. Butler and Rie K. Butler; and declaring an emergency.

**B. INTERGOVERNMENTAL AGREEMENT: WITH THE STATE OF ARIZONA TO UPGRADE THE VEHICLE DETECTION SYSTEM AT CERTAIN INTERSECTIONS ON AJO WAY**

- (1) Report from City Manager MAY17-04-239 W1
- (2) Resolution No. 19829 relating to Intergovernmental Agreements; approving and authorizing the Intergovernmental Agreement with the State of Arizona to upgrade the Detection System at City Maintained/State Owned Intersections on Ajo Way; and declaring an emergency.

C. TUCSON CODE: AMENDING (CHAPTER 20) UPDATING CITY TRAFFIC ORDINANCES

- (1) Report from City Manager MAY17-04-240 W2 & 3
- (2) Ordinance No. 9964 relating to motor vehicles and traffic; repealing ordinance No. 9759 of September 3, 2002, designating current streets or parts of streets where thirty-five miles per hour speed limit is imposed, pursuant to Section 20-141 of the Tucson Code; and declaring an emergency.
- (3) Ordinance No. 9965 relating to motor vehicles and traffic; repealing ordinance No. 9011 of February 2, 1998, and designating current streets or parts of streets where fifty miles per hour speed limit is imposed, pursuant to Section 20-144 of the Tucson Code; and declaring an emergency.
- (4) Ordinance No. 9966 relating to motor vehicles and traffic; repealing ordinance No. 9618 of October 8, 2001, designating current streets or parts of streets where forty miles per hour speed limit is imposed, pursuant to Section 20-142 of the Tucson Code; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Dunbar, duly seconded, that consent agenda items A through C, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any further discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Consent agenda items A through C were declared passed and adopted by a roll call vote of 7 to 0.

**7. CALL TO THE AUDIENCE**

Mayor Walkup announced that this was the time any member of the public was allowed to address the Mayor and Council on any issue except for any items scheduled for a public hearing. He asked speakers to make sure they had read the information on the back of the speaker's card before making their presentation. Speakers would be limited to three-minute presentations. He also announced that he had received a large number of speaker cards and the call to the audience would last for thirty minutes. First he said he would call on speakers who were there last week but were not called on.

- a. Rick Grinnel addressed the Mayor and Council urging them to look to the future when considering solutions to the budget and suggested better cooperation between the City and County could maximize limited dollars.
- b. Reverend Carol Chandler, representing the Pima County Interfaith Council, addressed the Mayor and Council on behalf of funding for social service agencies and urged the council to fund Job Path.
- c. Yolanda Herrera-LaFond urged the Mayor and Council to save Tucson's history and culture by preserving the Talk of the Town Building.
- d. Steve Pageau addressed the Mayor and Council regarding the budget and asked that they do what was necessary to invest in our community.
- e. Michael Toney addressed the Mayor and Council regarding the destruction of Hohokam ruins near Picacho and continued to express his ideas on the relationship of science and Native American culture.
- f. Gretchen Lueck addressed the Mayor and Council in support of preserving the Talk of the Town Building.
- g. Winston Watson addressed the Mayor and Council in support of preserving the Talk of the Town Building.
- h. Roy Martin addressed the Mayor and Council in support of preserving the Talk of the Town Building.
- i. Sara Wisdom addressed the Mayor and Council in support of preserving the Talk of the Town Building.

Mayor Walkup said he had four cards remaining, and he would save them for the next Mayor and Council meeting.

**8. PUBLIC HEARING: TUCSON CODE - AMENDING (CHAPTER 23) THE *LAND USE CODE (LUC)*; DEVELOPMENT COMPLIANCE REVIEW CODES; THE WATERCOURSE AMENITIES, SAFETY AND HABITAT REGULATIONS; AND THE DEVELOPMENT STANDARDS**

Mayor Walkup announced that City Manager's communication number 241, dated May 17, 2004, would be received into and made a part of the record. He announced that this was the time and place legally advertised for a public hearing on amendments to the *Tucson Land Use Code*. He said that before beginning the public hearing, staff would make a brief presentation.

Mayor Walkup called on Mr. Keene.

James Keene, City Manager, turned the presentation over to Mr. House.

Michael House, City Attorney, said that the Mayor and Council asked him to take a look at the *Land Use Code* to see what could be done to make it less confusing and easier to use by the public. He did that. One of the things, among many others, that struck him about the *Land Use Code* was how procedurally complex it was. There were thirty six separate procedures that were contained in three separate sets of regulations that applied to various phases of the development process. Most zoning ordinances that he was familiar with contained only a small fraction of that number.

Mr. House said he copied all of those procedures and Mr. Keene could verify this. He had his secretary tape them on his wall so he could see them all in one place. He looked at them for a long period of time and it occurred to him that they certainly could be consolidated into a lot fewer procedures. He then called Michael McCrory, Assistant Principal City Attorney, into his office and asked him to take a look at it, to see what could be done to consolidate the procedures, while making as few changes as possible. Mr. McCrory and other city staff members spent hundreds of hours revising the procedures and meeting with all affected stakeholders in the community.

Mr. House said that the product of that effort, which was before the council, would reduce the number of procedures by two-thirds. It would create clearly understood procedural rules that would make the *Land Use Code* much easier to use by those persons who administer it as well as those that must comply with its requirements. He also noted, although it was not a goal of this project, that it did further the lofty goal of saving trees by the fact they would be reducing sixty three pages of procedures down to seven pages of procedures.

More importantly, Mr. House said that these changes would also form the basis for other improvements to the *Land Use Code* that would be brought forward in the future. This was a tremendous accomplishment and he wanted to particularly commend Michael McCrory and also Sarah More, Jim Maurer, Clint Chiavarini, Peter Gavin, Walter Tellez, and the Development Services Department staff for the fantastic work they did on this project. He also wanted to thank all the members of the community who contributed to this effort.

Mayor Walkup announced that the public hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations. He said he had received a number of cards, and called on the first speaker.

Lori Lustig, representing the Southern Arizona Home Builders Association (SAHBA), said she just wanted to come in front of the council and say that yes indeed many hours had been spent on reviving and streamlining the *Land Use Code*. She said she participated on behalf of SAHBA with the Planning Commission, with city staff and some of the other community residents and neighborhood associations that participated in this process. It could have taken many more months. There were still some unresolved issues, and there were still some concerns on both sides of the table. One of those in particular was that in streamlining, one size did not fit all.

Ms. Lustig said that the Planning Commission asked a lot of good questions. They gave them several additional months to review the material and come back with their suggestions. What Mayor and Council had before them was what was hammered out by all parties. She said

that Mr. House was right. The Mayor and Council would be hearing about *LDO, PDO, DDO*, in the months to come because this was only one first step in the process to make the *Land Use Code* more understandable. Some people would tell the council that it would not be possible; some people would tell the council that it was possible, but it would take a lot of work. She sat around several other conference tables in an effort to address the *Land Use Code* from different perspectives. The work was ongoing. Tonight was one first step and while it was not perfect, they felt it left a fair compromise. SAHBA was in support of the Mayor and Council passing the *Land Use Code Amendment*.

Ruth Beeker, representing the Miramonte Neighborhood Association, said she was not being paid. For the past six months the Miramonte Neighborhood had been dealing with the rezoning requests for an in-fill project. This was her first opportunity to get to know the *Land Use Code* up close and personal. Two words best described her experience, overwhelming and disheartening. Overwhelming in the complexity and ambiguity of the code in understanding of the processes and in meeting timelines not designed for getting neighborhood groups input. Disheartening in learning first hand what the *LUC* was permitting to happen to Tucson's established neighborhoods, all in the name of in-fill. Miramonte had been one of the fortunate midtown neighborhoods. Most of the completed in-fill projects had been respectful of the site and of their lifestyle, but she now became aware of just out of balance the rules and regulations were. She said that she lost track of how many people said to her after looking at Miramonte's proposed development, "Oh the city would never approve that". To her regret she had to say, "Oh yes they will, this was within code". The fact that the most important concern the neighborhood advocates had at this time was the preservation of simple notification of what was being planned for their area. It illustrated how weak the citizen's position currently was. She asked if there was any hope for the future, she responded, "you bet". Many citizens in Tucson were looking for the need to maintain the integrity of their property values, the character of their neighborhoods, and the quality of their life.

She said that she believed city staff cared. When she found the right people to talk to they were very generous in sharing their time and expertise with her on this rezoning issue. Other staffers had included neighborhood representatives, when looking at the *DDO*, which was *Design Development Option*, which she did not know a month ago. She read in the paper that there were members of the city council who had decided that lots of the stuff happening around Tucson was really ugly and that was really positive for them also. She asked that the Mayor and Council's involvement with the *LUC* not stop at this stage of revision, but continue by looking at the content of what was in there. Specifically, what was being allowed under that residential cluster project umbrella and in allowing lots to be split at a given location. Substitutive changes were needed to protect the current residents who were already vested in their neighborhoods from inappropriate undesirable development. She thanked the Mayor and Council.

Bill DuPont, President of Colonia Solana Homeowners Association, said that this had been a major discussion at their homeowners meeting. It had also been a discussion of the Central Citizen Leadership Network, which were representatives of Ward 6. The desire for this was that they all had the ability, whether they were developers, homeowners and private residents to understand the *Land Use Code*.



It was very difficult to sit down and have a discussion when everyone was talking in code, DDO, RCP, 5.3, 1B, 15, to 4.4 to Chapter 23. He said that he did not know what he just said but it was there. There were things that they tried to hammer out and he wanted to thank the staff and he wanted the Planning Commission to allow them to come to the table at a point in time and try to iron out their difficulties, misconceptions, their needs and their goals. It had been an educational process for all of them and he felt it should continue. There were other people there who were better qualified, that understood this better than he did, so he would leave that for them. His concern was also about notification. It was very hard for homeowner associations and neighborhood associations to get this notification and to know how to react. It was very difficult and putting in timed guidelines was very needed.

Mr. DuPont said he was also there to request the following, on behalf of his homeowners association. At the present time, they were not being notified because they were homeowners and not a neighborhood association. In talking to city attorneys, he found that it was up to the Mayor and Council to make this revision. He said that as they move forward, they were seeing more and more developments becoming homeowners, because they felt they had a better understanding and better control over what could go on in their residential clusters. He said this was true, they did have better control; so they needed to extend the courtesy of notification to these people also.

The other thing Mr. DuPont wanted to discuss briefly was historic designation. He said they really did not touch on this in the *Land Use Code*. Residents who lived in historical neighborhoods, whether it be federal or whether it be city, had put forth a lot of effort. He said that if anyone had gone through it, it would be a minimum of six years invested. They would like some protections to know that their efforts had been worth it. They invested in these neighborhoods with that idea and they did get a tax break. But that tax break was reinvested in keeping up these older homes. It was expensive; it was an ongoing process. They needed to protect those residents and allow the people who come into these residents to know that they were going to have the quality of life that they were expecting. A lot of them assumed, that were coming in from Raytheon and all that lived in his neighborhood, that if they were a historic neighborhood they were protected. They were coming in from back east where they protect historic neighborhoods. When he told them, "no, not really" it was a major shock to them. Also he would like to see that issue addressed. There were many things, but the Mayor and Council had a lot of paper work. They had sent a letter on their behalf and he was sure Colette would address this better than he could. He thanked the Mayor and Council for their time and he hoped to continue this dialogue.

Colette Altaffer, President of the Catalina Vista Neighborhood Association, said that she was there as a concerned neighbor and she was not being paid to be there. She said that she would try and not have their eyes glaze over because she was sort of addressing the specifics of the *Land Use Code*. They had been working on it for the past seven months and they had been studying the proposed changes to the proposed *Land Use Code*. Their focus had been in keeping with the purpose of zoning, which was to preserve and protect neighborhoods. She wanted to thank the staff in the Planning Department for recognizing the importance of bringing all parties to the table and helping to create an atmosphere that was open, constructive and respectful of the different viewpoints. She also wanted to thank Lori Lustig, and other members of SAHBA, who even now

continue to meet with them and city staff, as work progresses on other areas of the *Land Use Code*.

Ms. Altaffer said that last week, the neighborhood representatives forwarded a letter and a memo to the Mayor and Council outlining their concerns with the proposed changes to the *Land Use Code*. In particular, they were asking that the Mayor and Council consider preserving Section 5.4.5 of the *Land Use Code*, which was titled "Components of the Procedures." This section places various elements of a procedure in one easy to locate section. While it was not all-inclusive it does provide a kind of road map that lets interested parties know, among other things, what documentation must accompany their application, whether a neighborhood meeting or a public hearing would be required, who would decide the case and whether or not there was a right to appeal a decision.

Since one of the stated goals of the streamlining process of this was to provide consistent criteria, so that the general public would be able to understand and apply the code, they believed that having these criteria in one easy to access location would facilitate this goal. They were also concerned about several specific provisions under neighborhood notification, specifically, Sections 5.4.2.1B, 5.4.3.B.1.B and 23A-54A1. These sections once contained language that required notification of the next two closest neighborhood associations, if there was no neighborhood associations located within a mile of the site. This language was removed and they were asking that the Mayor and Council insert language, which required notification of at least the next closest neighborhood association.

Ms. Altaffer said that since these sections dealt with such things as rezonings, the creation of overlay zones, development on hillsides, along washes and scenic corridor zones, they thought that there was a real potential for broader community impact. They would therefore like to see the wider notification requirement reinserted back in. In general, they believed that notice provisions would be increasingly important, as infill and new development occurred. They would like to see notice provisions preserved or even expanded if necessary. Increasingly, neighborhood and homeowners associations were taking on more of the responsibilities that city staff once handled. Often they were now the first source for information and assistance, and they are creating a sort of "defacto" partnership between the city and associations. With the city budget strained to the breaking point, this partnership between city and the unpaid volunteers who run these associations would become increasingly vital. The knowledge, experience, and different perspectives that these volunteers bring to the table would be invaluable as the city seeks to address its most pressing problems. They hoped to help the city work to strengthen this partnership. They suggested that one good way to start was to direct the Department of Neighborhood Resources to set-up a separate system so that homeowners associations could at least receive notices of variances and rezoning requests, in hopes that this would help foster a greater sense of ownership and commitment to the community.

Connie Harris, Vice President for the Enchanted Hills Neighborhood Association, said she was being paid. She said that she had a letter from Beryl Baker who asked her to read it to the Mayor and Council.

To the Honorable Mayor Walkup and City Council Members:

Regarding comments on the proposed changes to streamline the city of Tucson *Land Use Code*. I feel that the changes take away some protection for neighborhoods, prevent and/or make harder some participation by individuals in planning growth and environmental issues. Those changes on codes that take years to make by many individuals of the community and throws out many of them by deletion of language or change of language. Changes some Codes into options and possible automatic variances by passing review process of either neighborhood or various city departments. It makes some notices more users friendly, but deletes many other opportunities for neighborhoods to be noticed or shortens time or distances for new development that limits neighbors from even awareness of changes coming to their areas.

Since this power, in one, maybe two, un-elected employees of the city to make sweeping decisions about development decisions that affect the environment of neighbors and city. It take's away the ability of an individual to ask to have a wash be looked at as a possible additional to the ERZ or Wash Ordinances. It was the council's job to help make some of these hard decisions.

These changes take away some of the councils place to act as balance and have some of the control on growth issues. She felt the council should go slow with this and make the changes for the good for the city and citizens, as a whole, not just to make it easier to build.

We have little enough left in the Tucson area that makes this city the tourist attraction it has been.

Thank you,  
Beryl Baker, Neighborhood Co-Facilitator

Elezabeth Cameron, a Casa Alegra resident and member of the A Mountain Community Group, said that her group supported the letter that was read by Connie. It was things that the Mayor and Council had stuck their fingers into and had blown up in everyone's face. She said that the one thing that the council did not stick their finger in, that was an absolute success, was the dog-park. Here was a group of committed citizens that said that this was their home. It may be the council's jurisdiction, but it was their home.

Ms. Cameron said they thought they had worked very hard and that was why they supported them. They had come to their neighborhood association meetings and A Mountain meetings, and they told them what was going on. They were not getting that information from the Mayor and Council, because of the way that it was currently set up. This was one of those opportunities when the Mayor and Council had to let the citizens continue to work with this group and take their advice and make this a successful project.

Ms. Cameron said that unlike her neighborhood, as the council had heard a thousand times about the flooding, they had no input when Habitat built up on King Street and all that flood water joined the flood water they already had and it came barreling into their neighborhood. They had not been made aware of what they could or could not do. She said that it was her understanding that by being notified, being told when they had agreements with something being built or wanted the information, then that was the whole purpose behind getting this reduced to a size where people could understand it. As a homeowner at Casa Alegra, she said this was something she would have loved to have before that subdivision was built. She asked the Mayor and Council to let the citizens continue to work on this, because she thought they had done an excellent job and she thanked them for their work in letting them know.

Bonnie Poulos said she had been involved in various development and neighborhood issues for the last twenty years in the city of Tucson. The reason she did that was because she loved her neighborhood and she loved where she lived. She loved living in the city of Tucson. The *Land Use Code* was crafted over many years and the provisions of the *Land Use Code* reflected a good number of the issues that had been raised over the years, before many of them were even involved in planning issues within the city.

Ms. Poulos said she lived in an area, as do many that live in mid-town, which was zoned at a far higher density than they were currently built at. She also lived in a community that had no development impact fees to help pay for infrastructure improvements, as a result of infill, new development, and redevelopment that occurs within the community. She strongly urged the Mayor and Council to maintain and retain the issues that dealt with notification of neighborhoods and to definitely expand that to homeowners associations. She was on the Planning Commission for four years and for two of those years they lobbied to homeowners associations as part of the notification process and that had not been done even to this day. Those who owned homes, those who paid property taxes and lived here, were the largest stakeholders within this community.

She urged the Mayor and Council to look at infill development in the community that was zoned far greater than it was developed at and the impact that it would have on those that wished to live here and were accustomed to a certain lifestyle. Notifying people allows them a chance to get used to the idea of new development occurring. It would give them a chance to educate themselves about what rights they had, in order to be able to deal with the development issues that arise and to be able to give them a chance to speak up for their stake in the process and the community they had invested in.

Mayor Walkup asked if there was anyone else wishing to address the council on this issue. There was no one. He asked the council's pleasure.

It was moved by Vice Mayor Ronstadt, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the city clerk to read Ordinance 9967 by number and title only.

Ordinance No. 9967, relating to planning and zoning; consolidating the procedures for implementation of development regulations, including the legislative, administrative and appeal procedures in the Land Use Code, Development Compliance Review Code, and Watercourse Amenities, Safety and Habitat Code; making necessary technical and conforming amendments; amending Tucson Code Chapter 23, the Land Use Code by amending Article I, General provisions, Divisions 1, Introduction, 2, Interpretation, and 3 Mapping; Article II, Zones, Divisions 2, Rural Residential Zones, 3, Urban Residential Zones, 4, Office Zones, 5, Commercial Zones, 6, Mixed Use Zones, 7, Industrial Zones, and 8, Overlay Zones; Article III, Development Regulations, Divisions 1, General Provisions, 2, Development Criteria, 5, Performance Criteria, 6, Development Incentives, 7, Landscaping and Screening Regulations, and 8, Native Plant Preservation; Article IV, Subdivisions, Divisions 1, Generally, 2, Minor Subdivisions, and 3, Land Splits; Article V, Administration, Divisions 1, Powers and Duties, 2, Special Planning Documents, 3, Special Development Applications, 4, Procedures, and 5, Compliance and Enforcement; and Article VI, Definitions, Division 2, Listing of Words and Terms; amending Tucson Code Chapter 23A, to retitle Chapter 23A as the “Development Compliance Code”; and repealing current Article II, Review Procedures and adding a new Article II, Review Procedures, consisting of Divisions 1, General Zoning Review Procedure, 2, Special Zoning Review-Limited Notice Procedure, 3, Special Zoning Review-Full Notice Procedure, and 4, Appeal Procedures; and amending Article III, Definitions, Division 2, Listing of Words and Terms; amending Tucson Code Chapter 29, Energy and Environment, Article VII, Watercourse Amenities, Safety and Habitat, Sections 29-13, Definitions, 29-15, Development in the Study Area, 29-16, Development Requirements for Resource Areas, 29-17, Review and approval, 29-18, Violation Declared a Civil Infraction, and 29-19, Appeals and Variances; declaring an emergency and setting an effective date.

Mayor Walkup called on Council Member Scott.

It was moved by Council Member Scott, duly seconded, to pass and adopt Ordinance 9967.

Council Member Scott thanked all that participated, especially Mr. House, and said that this was an ongoing process. She thought that mountains had been overcome in this process and there was still room for more input. But she thought that this motion should be allowed to pass as it was right now, with the hope that tomorrow they could continue with this process.

Mayor Walkup asked if there was any discussion.

Mayor Walkup recognized Council Member Leal.

Council Member Leal said that he had one general question, then a more specific question. He said he had received some phone calls from people saying that they thought these changes would make it easier for variances to occur, with the authority being established at the staff level, as opposed to a more public level or coming to the council. He asked if staff could address that.

Albert Elias, Urban Planning and Design Director, said he did not believe the decision making around variances was being changed by this ordinance.

Council Member Leal thanked Mr. Elias and said okay. His second question was when they talked about this during the study session, two or three speakers raised the question about homeowners associations. He thought some of them agreed it would be a good thing to not just do adjacent property owners in a homeowners association, but to figure out how to do that.

Council Member West said that they did not allow renters to vote.

Council Member Leal responded “no, a homeowners association.”

Council Member West responded yes.

Council Member West said as she understood it, and staff could correct her if she was wrong, the reason that homeowners associations were not recognized by the city was because they did not allow renters to vote. She said she was in a homeowners association and that was the major impediment to their being recognized by the city.

Council Member Leal said he appreciated the distinction, but would ask the question differently. He thought the reason the city legitimately takes the issue that Council Member West was saying was because tax money was used to pay for mailing to neighborhood associations. However, this was a different issue and that was whether the association had a basis to be notified about *Land Use Code* changes in some proximity to itself, given that it was a different kind of issue than the legitimate issues raised by Council Member West. He asked Mr. House and Mr. Elias if they could get there.

Michael House, City Attorney, said that he would point out, in addition to what had been said that homeowners associations were generally formed to maintain the common areas in associations. They were not formed for the purpose of representing people in zoning disputes and things of that nature. That was more in the realm of neighborhood associations. Homeowners associations were formed merely to take care . . .

Several spoke at once.

Council Member Leal said he understood that and the reason they did that was to maintain their property values. The reason they would be interested in issues of rezonings was whether or not it negatively or positively affected their property values. They might not have had problems notifying people if they thought it was appropriate. At least they would be given an opportunity to act. They would not be obliged to act once they had been notified. He just thought that in attempting to be responsive to what seemed like a valid concern on the part of people, he would like to see if there was a way for the city to do that. Council Member Leal asked if Mr. Elias wanted to add something.

Mr. House said he wanted to add that it might be possible, and he was not saying that it was not possible to do it, but there would be some technical problems in that they were not registered with the city. They frequently had management companies or statutory agents or someone of that nature that would take care of their affairs. The city did not know who those people were and they would have to figure out who they were, but it could be done.

Council Member Leal said he would stop with his comments and he thought that the additional conversation they had during this item was helpful to that end. He was going to go ahead and support the motion, but asked that this part of this come back to the Mayor and Council in the near future, whether it would be a month to three months, for the council to be able to see if there was a way to rain this in.

Mayor Walkup called on Council Member West.

Council Member West said, that as a former president of a homeowners association, she could tell Council Member Leal that there were times when they were not notified of things. She was pretty annoyed and tried to work with the city on that, but she did not get anywhere. She agreed with Council Member Leal, but she did not want to hold the ordinance up. One of the other things that Colette mentioned was the organization, including the framework that was originally there. It was her understanding that they were going to develop a brochure for the public, which she thought would satisfy concern as to how to find things. She thought that the flowcharts did good, laying things out for people and thought that was taken care of.

The third issue was that there was a private property issue and she thought they had to be very careful of something like that, with all due respect to what Beryl was taking about. She congratulated staff, and especially Mr. House, and thanked him very much for doing this. But she thought that maybe in six months or so, he could just send them a memo and let them know how things were going. He might bring back these homeowners association ideas sooner. She said that Mr. House could come back from Phoenix and tell the council how this was working. She asked that he just give the council an idea of how this was working and if it needed to be tweaked. At the same time she thought the council needed to keep in mind that this was dealing only with procedures and it was not dealing with the content of the code. Where they had changed the code in one place, they made it worse somewhere else. She thought that was what Ruth had just been dealing with and possibly some of the others too. The Council really needed to keep working on this and she was glad to hear that they had some people here that were diligent and willing to do that.

Mayor Walkup asked if there was any further discussion.

Council Member Dunbar said she just had to share that Council Member Leal said that this was his final "house cleaning".

Mr. House replied not yet, that he had one more appointment.

Mayor Walkup asked if there was any further discussion. Hearing none he asked for the roll call.

Upon roll call, the results were:

Aye:	Council Members Ibarra, West, Dunbar, Scott, and Leal;
	Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Ordinance 9967 was declared passed and adopted by a roll call vote of 7 to 0.

**9. MAGISTRATES: APPOINTMENT OF CITY MAGISTRATES**

Mayor Walkup announced that City Manager's communication number 242, dated May 17, 2004, would be received into and made a part of the record. He asked the City Clerk to read ordinances 9968 and 9969, by number and title only.

Ordinance No. 9968, relating to City Magistrates; appointing Eugene H. Hays as City Magistrate of the City of Tucson; fixing compensation and declaring an emergency.

Ordinance No. 9969, relating to City Magistrates; appointing Nikki Ann Chayet as City Magistrate of the City of Tucson; fixing compensation and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Leal, duly seconded, that Ordinance 9968 be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Ordinance 9968 was declared passed and adopted by a roll call vote of 7 to 0.

It was moved by Council Member Leal, duly seconded, that Ordinance 9969 be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Ordinance 9969 was declared passed and adopted by a roll call vote of 7 to 0.



**10. MAGISTRATES: APPOINTMENT OF LIMITED SPECIAL CITY MAGISTRATES**

Mayor Walkup announced that City Manager's communication number 243, dated May 17, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 9970, by number and title only.

Ordinance No. 9970, relating to City Magistrates; appointing Karen Maish-Leavitt Limited Special City Magistrate of the City of Tucson; fixing compensation; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Vice Mayor Ronstadt, duly seconded, that Ordinance 9970 be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Ordinance 9970 was declared passed and adopted by a roll call vote of 7 to 0.

**11. MAGISTRATES: APPOINTMENT OF SPECIAL CITY MAGISTRATES AND SELECTION PROCESS FOR TUCSON CITY COURT SPECIAL MAGISTRATES**

Mayor Walkup announced that City Manager's communication number 244, dated May 17, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 9973 and Ordinance 9974, by number and title only.

Ordinance No. 9973, relating to City Court; amending the Tucson Code Chapter VIII City Court, Article I In General, Section 8-2.2 Appointment of Special Magistrates, Terms of Office, Compensation, Powers, Duties, and Qualifications; and declaring an emergency.

Kathleen S. Detrick, City Clerk, said that she had a clerical correction to this ordinance. On page one of the ordinance under Section 1, Section 8-2.2, Subsection A, that reads within ninety days of a request for a Presiding Judge of the Superior. It should read the Presiding Judge of the Superior Court and the final ordinance had been corrected.

Ordinance No. 9974, relating to City Magistrates; appointing Stacey Hayes, Paul Julien, Stellisa Scott, Wendy Anne Hernandez, Stephen T. Portell, and Clinton Ray Stinson as Special City Magistrates to serve upon call by the Chief Executive Officer of the Court; fixing compensation and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Ibarra, duly seconded, that Ordinance 9973 be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar (pass) Scott and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Ordinance 9973 was declared passed and adopted by a roll call vote of 7 to 0.

It was moved by Council Member Ibarra, duly seconded, that Ordinance 9974 be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar (pass), Scott and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Ordinance 9974 was declared passed and adopted by a roll call vote of 7 to 0.

**12. TUCSON CODE: AMENDING (CHAPTER 8) PROVIDING FOR THE APPOINTMENT OF JUSTICES OF THE PEACE TO PERFORM WEEKEND ARRAIGNMENTS AND INITIAL APPEARANCES**

Mayor Walkup announced that City Manager's communication number 245, dated May 17, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 9971, by number and title only.

Ordinance No. 9971, relating to City Court; amending the Tucson Code, Chapter VIII City Court, Article I In General by adding a new Section 8-2.5 Justices of the Peace, Initial Appearances and Weekend Arraignments; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member West, duly seconded, that Ordinance 9971, be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Ordinance 9971 was declared passed and adopted by a roll call vote of 7 to 0.

**13. CITY COURT: APPOINTMENT OF JUSTICES OF THE PEACE TO PERFORM WEEKEND ARRAIGNMENTS AND INITIAL APPEARANCES**

Mayor Walkup announced that City Manager's communication number 246, dated May 17, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 9972, by number and title only.

Ordinance No. 9972, relating to City Court; appointing Pima County Justices of the Peace to act as Special City Magistrates for purposes of initial appearances and weekend arraignments; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Dunbar, duly seconded, that Ordinance 9972 be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Ordinance 9972 was declared passed and adopted by a roll call vote of 7 to 0.

**14. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES**

Mayor Walkup announced that City Manager's communication number 235, dated May 17, 2004, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 7 to 0, to appoint Paula Smith, Harrold Hummer, and Irene Ogota, to the Landscape Advisory Committee.

Mayor Walkup asked if there were any personal appointments at this time. There were none.

**15. MEMORANDUM OF UNDERSTANDING: BETWEEN THE MAYOR AND THE CHAIRPERSON OF THE PIMA COUNTY BOARD OF SUPERVISORS REGARDING 1997 TRANSPORTATION BOND PROJECTS WITHIN THE CITY LIMITS**

Mayor Walkup announced that City Manager's communication number 247, dated May 17, 2004, would be received into and made a part of the record. He asked the City Clerk to read Resolution 19830, by number and title only.

Resolution No. 19830, relating to the 1997 Pima County Transportation Bond Program; ratifying and approving the Memorandum of Understanding between the Mayor of the City of Tucson and the Chairperson of the Pima County Board of Supervisors for seven 1997 Pima County Transportation Bond Program projects within the City limits; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Council Member Leal said he would like to continue this item for one week.

Council Member West asked Council Member Leal why the council needed to do that because she thought it was important that they get this done.

Council Member Leal asked the Mayor to address this.

Mayor Walkup said that there were additional bits of information that some of the Council Members asked for clarification on before this vote, and he thought that this was okay. He talked to the County and they indicated there was no pressing rush for this to be done. If it would help the council members to understand more fully the intent then he thought it was the appropriate thing to do.

Mayor Walkup called on Council Member Dunbar.

Council Member Dunbar thanked the Mayor and asked if that meant that she could push to get the Grant Road and Oracle to Park Avenue as part of this.

Mayor Walkup said that they could certainly talk about that.

Mayor Walkup said they had a motion for a continuation and asked if there was any further discussion.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, to continue this item one-week, to the meeting of May 24, 2004.

**16. ADJOURNMENT 7:03 p.m.**

Mayor Walkup announced that the council would stand adjourned until its next regularly scheduled meeting to be held Monday, May 24, 2004 at 5:30 p.m., in the Mayor and Council Chambers in City Hall, 255 W. Alameda, Tucson, Arizona.

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MAYOR

ATTEST:

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CITY CLERK

**CERTIFICATE OF AUTHENTICITY**

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the city of Tucson, Arizona, held on the 17<sup>rd</sup> day of May, 2004, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

KSD:bp/sac